



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/161819

PRELIMINARY RECITALS

Pursuant to a petition filed November 06, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Manitowoc County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 11, 2014, at Manitowoc, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits effective December 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Michele Koeppel

Manitowoc County Department of Human Services
3733 Dewey Street
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. On or about October 21, 2014, the Petitioner submitted an online renewal for FS benefits. She reported a household of four, including her husband [REDACTED] and two minor children. She reported employment for [REDACTED] with earned income that included biweekly 77

regular hours/pay period at \$14.74/hour and 1.38 hours overtime/pay period at \$22.11/hour. Actual pay statements from September 26, 2014 and October 10, 2014 were submitted. Petitioner also reported rent of \$625/month.

3. On November 3, 2014, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would decrease to \$142/month effective December 1, 2014. This was based on gross monthly income of \$2,505.80 from ■■■'s employment, rent expense of \$625 and a standard utility expense.
4. On November 6, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$165 per month for a four-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

At the hearing, the Petitioner testified that ■■■ usually does not receive overtime. Therefore, she asserts that the income budgeted by the agency which included 1.38 hours/pay period of overtime is not accurate. The Petitioner did not provide any evidence regarding ■■■'s actual income or evidence to demonstrate that the overtime that was budgeted is not reflective of actual income. The agency pointed out that the pay statements from September and October provide the year-to-date totals for ■■■'s overtime. As of October, 2014, ■■■ had earned \$386.99 in overtime for the year. That is an average of \$38.69/month. The agency budgeted \$30.51 in overtime for ■■■. Based on the pay statements and the year-to-date overtime, the agency's budgeted income for overtime is reasonable. I note that any time there is a significant change in the Petitioner's household income, she can report that change to the agency so that the agency can review the Petitioner's FS allotment.

I reviewed the agency's budget screen for FS benefits effective December 1, 2014 and find that the agency properly determined the Petitioner's FS allotment.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS allotment effective December 1, 2014.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 5th day of January, 2015

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 5, 2015.

Manitowoc County Department of Human Services
Division of Health Care Access and Accountability